

**SIDE-LETTER AMENDING CPOA MOU
ARTICLE 25 – FLEXIBLE BENEFITS PROGRAM**

WHEREAS, the Carlsbad Police Officers’ Association and representatives of the City of Carlsbad (“City”) met and conferred and reached agreement on a Memorandum of Understanding (MOU) for the period from January 1, 2001 to December 31, 2007.

WHEREAS, representatives of the City and the CPOA have reached agreement on the following amendments to the current MOU.

THE CPOA AND THE CITY OF CARLSBAD DO HEREBY AGREE THAT:

Article 25 is amended to read as follows:

ARTICLE 25 FLEXIBLE BENEFITS PROGRAM

25.1 Employees represented by the CPOA will participate in a flexible benefits program which includes medical insurance, dental insurance, vision insurance, flexible spending accounts (FSAs) and other insurance-related products offered through the CPOA. Each of these components is outlined below.

25.2 Medical Insurance
During the entire term of this agreement, represented employees will be covered by the Public Employees’ Medical and Hospital Care Act (PEMHCA) and will be eligible to participate in the CalPERS Health Program. The City will pay on behalf of all employees covered by this agreement and their eligible dependents and those retirees designated in Section 25.5 of this Article, the minimum amount per month required under Government Code Section 22825 of the PEMHCA for medical insurance through the California Public Employees’ Retirement System (CalPERS). If electing to enroll for medical benefits, the employee must select one medical plan from the variety of medical plans offered.

Effective the first full pay period following City Council approval of this agreement, the City shall contribute the following monthly amounts (called “Benefits Credits”) on behalf of each active employee and eligible dependents toward the payment of 1) medical premiums under the CalPERS Health Program, 2) contributions in the name of the employee to the City’s flexible spending account(s), 3) contributions of some or all of the premium for dental coverage, vision coverage, or other insurance related products offered through the CPOA.

- (a) For employees with “employee only” coverage, the City shall contribute two hundred eighty dollars (\$280) per month that shall include the mandatory payments to CalPERS. If the actual total premiums exceed the City’s total contributions, the employee will pay the difference.
- (b) For employees with “employee plus one dependent” coverage, the City shall contribute four hundred nine dollars (\$409) per month that shall include the

mandatory payments to CalPERS. If the actual total premiums exceed the City's total contributions, the employee will pay the difference.

- (c) For employees with "employee plus two or more dependents" coverage, the City shall contribute five hundred twenty-four dollars (\$524) per month that shall include the mandatory payments to CalPERS. If the actual total premiums exceed the City's total contributions, the employee will pay the difference.

Beginning January 1, 2002:

- (a) For employees with "employee only" coverage, the City shall contribute three hundred twenty dollars (\$320) per month that shall include the mandatory payments to CalPERS. If the actual total premiums exceed the City's total contributions, the employee will pay the difference.
- (b) For employees with "employee plus one dependent" coverage, the City shall contribute four hundred forty-nine dollars (\$449) per month that shall include the mandatory payments to CalPERS. If the actual total premiums exceed the City's total contributions, the employee will pay the difference.
- (c) For employees with "employee plus two or more dependents" coverage, the City shall contribute five hundred sixty-four dollars (\$564) per month that shall include the mandatory payments to CalPERS. If the actual total premiums exceed the City's total contributions, the employee will pay the difference.

The dollar amount paid by the City for each coverage level (employee only, employee plus one dependent, employee plus two or more dependents) will be increased on January 1 in 2003, 2004 and 2005. The amount of the increase will be determined by 1) taking the average percentage increase for all of the CalPERS HMO Health plans for January 1st of the year in question and 2) adding this percentage increase to the previous calendar year's monthly City contribution for each coverage level (rounded to the nearest whole dollar amount) to determine the new monthly City contribution dollar amount.

The monthly dollar amount paid by the City for each coverage level (employee only, employee plus one dependent, employee plus two or more dependents) will be increased on January 1, 2006 by fifty-five dollars (\$55).

The monthly dollar amount paid by the City for each coverage level (employee only, employee plus one dependent, employee plus two or more dependents) will be increased on January 1, 2007 by sixty dollars (\$60).

Under no circumstances will any unused Benefits Credits as outlined above be paid to the employee in cash. If the amount contributed by the City (Benefits Credits) exceeds the cost of the medical insurance purchased by the employee, the employee will have the option of using any "excess credits" to purchase dental insurance, vision insurance or any other insurances provided by the CPOA, or to contribute to a healthcare or dependent care flexible spending account (FSA).

25.3

Dental Insurance

Represented employees are eligible to enroll in a CPOA-sponsored dental plan.

25.4 Vision Insurance
Represented employees are eligible to enroll in a CPOA-sponsored vision insurance plan.

25.5 Each retired employee who was a member of this bargaining unit is covered by the Public Employees' Medical and Hospital Care Act and is eligible to participate in the California Public Employees' Retirement System (CalPERS) Health Program. Represented employees who retire from the City, either service or disability, shall be eligible to continue their enrollment in the CalPERS Health Program when they retire, provided that the individual is enrolled or eligible to enroll in a CalPERS medical plan at the time of separation from employment and their effective date of retirement is within 120 days of separation. The City will contribute the minimum amount per month required under Government Code Section 22825 of the PEMHCA toward the cost of each retiree's enrollment in the CalPERS Health Program. Direct authorization may be established for automatic deduction of payments for health insurance administered by CalPERS.

IN WITNESS WHEREOF, the parties hereto understand and agree to the above terms and conditions and have caused their duly authorized representatives to execute this side letter on October 6, 2003.

CITY OF CARLSBAD

CARLSBAD POLICE OFFICERS'
ASSOCIATION

Raymond R. Patchett
City Manager

Sr. Police Officer Robert Galloway
President

APPROVED AS TO FORM:

Ronald Ball
City Attorney

Rob Wexler
Silver, Hadden & Silver

SIDE-LETTER AMENDING CPOA MOU
ARTICLE 2 – TERM AND RENEGOTIATION, ARTICLE 8 – COMPENSATION
ADJUSTMENTS, ARTICLE 24 – RETIREMENT BENEFITS
AND ARTICLE 25.2 – MEDICAL INSURANCE

WHEREAS, the Carlsbad Police Officers’ Association and representatives of the City of Carlsbad (“City”) met and conferred and reached agreement on a Memorandum of Understanding (MOU) for the period from January 1, 2001 to December 31, 2005.

WHEREAS, at the request of the CPOA, in May, 2002 the City agreed to open discussions regarding certain terms and provisions covered by the current MOU between the parties.

WHEREAS, representatives of the City and the CPOA have reached agreement on the following amendments to the current MOU.

THE CPOA AND THE CITY OF CARLSBAD DO HEREBY AGREE THAT:

MOU Article 2 – Term and Renegotiation is amended to read as follows:

- “2.1 The term of this Memorandum shall commence on January 1, 2001, and shall continue until December 31, 2007.
- 2.2 Negotiations for a successor Memorandum shall begin by the exchange of written proposals in approximately September 2007.”

MOU Article 8 – Compensation Adjustments is amended to read as follows:

- “8.3 Effective the pay period inclusive of July 1, 2003, the base salary of each employee in each classification represented by the CPOA and employed as of July 1, 2003, shall be increased by four and one-half percent (4.5%).
- 8.4 Effective the pay period inclusive of July 1, 2004, the base salary of each employee in each classification represented by the CPOA and employed as of July 1, 2004, shall be increased by four and three-quarters percent (4.75%).
- 8.5 Effective the pay period inclusive of July 1, 2005, the base salary of each employee in each classification represented by the CPOA and employed as of July 1, 2005, shall be increased by five percent (5%).
- 8.6 Effective the pay period inclusive of July 1, 2006, the base salary of each employee in each classification represented by the CPOA and employed as of July 1, 2006, shall be increased by four percent (4%).
- 8.7 Effective the pay period inclusive of July 1, 2007, the base salary of each employee in each classification represented by the CPOA and employed as of July 1, 2007, shall be increased by four percent (4%).”

The following language is added to MOU Article 24 – Retirement Benefits:

- “24.5 Effective the pay period inclusive of January 1, 2004, the City will begin reporting the value of Employer Paid Member Contributions (EPMC) as additional compensation to CalPERS for all CPOA represented employees.”

The following language is added to MOU Article 25.2 – Medical Insurance:

“The monthly dollar amount paid by the City for each coverage level (employee only, employee plus one dependent, employee plus two or more dependents) will be increased on January 1, 2006 by fifty-five dollars (\$55).

The monthly dollar amount paid by the City for each coverage level (employee only, employee plus one dependent, employee plus two or more dependents) will be increased on January 1, 2007 by sixty dollars (\$60).”

IN WITNESS WHEREOF, the parties hereto understand and agree to the above terms and conditions and have caused their duly authorized representatives to execute this side letter on October 21, 2002.

CITY OF CARLSBAD

CARLSBAD POLICE OFFICERS’
ASSOCIATION

Raymond R. Patchett
City Manager

Sr. Police Officer Robert Galloway
President

APPROVED AS TO FORM:

Ronald Ball
City Attorney

Rob Wexler
Silver, Hadden & Silver

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF CARLSBAD
AND THE CARLSBAD POLICE OFFICERS' ASSOCIATION**

Term: January 1, 2001 - December 31, 2005

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MEMORANDUM OF UNDERSTANDING

This memorandum of Understanding is made and entered into as of the date of formal approval hereof by the City Council of the City of Carlsbad, by and between designated management representatives of the City of Carlsbad (hereinafter referred to as the "City") and the designated representatives of the Carlsbad Police Officers' Association (hereinafter referred to as "CPOA").

PREAMBLE

It is the purpose of the Memorandum of Understanding (hereinafter referred to as "Memorandum") to promote and provide for harmonious relations, cooperation and understanding between the City management representatives and the local safety police employees covered under this Memorandum; to provide an orderly and equitable means of resolving any misunderstandings or differences which may arise under this Memorandum; and to set forth the agreement of the parties reached as a result of good faith negotiations regarding wages, hours and other terms and conditions of employment of the employees covered under this Memorandum, which agreement the parties intend jointly to submit and recommend for City Council approval and implementation.

ARTICLE 1. IMPLEMENTATION

This Memorandum constitutes a mutual recommendation to be jointly submitted to the City Council following ratification of the Memorandum by the membership of CPOA. It is agreed that the City will act in a timely manner to make the changes in City ordinances, resolutions, rules, policies and procedures and those of the Police Department necessary to implement this Memorandum.

ARTICLE 2. TERM AND RENEGOTIATION

- 2.1 The term of this Memorandum shall commence on January 1, 2001, and shall continue until December 31, 2005.
- 2.2 Negotiations for a successor Memorandum shall begin by the exchange of written proposals in approximately September 2005.

ARTICLE 3. RETENTION OF BENEFITS

Existing benefits contained in this Memorandum shall not be changed during the term of this agreement without the mutual consent of the parties hereto. Existing benefits not set forth in this Memorandum which fall within the scope of representation shall not be changed by the City without advance notice and an opportunity to meet and confer regarding such change. The parties recognize and accept the concept of past practices as to matters within the scope of representation and agree to meet and confer regarding a proposed change in any such practices. The City shall not propose any such changes unless required to do so for operational or organizational reasons.

ARTICLE 4. AUTHORIZED AGENTS

For the purpose of administering the terms and provisions of this Memorandum:

- 4.1 City's principal authorized agent shall be the City Manager or a duly authorized representative [Address: 1200 Carlsbad Village Drive, Carlsbad, California 92008; Telephone: (760) 434-2821] except where a particular representative is specifically

designated in connection with the performance of a specific function or obligation set forth herein.

- 4.2 CPOA's principal authorized agent shall be its President or duly authorized representative [Address: P.O. Box 1392, Carlsbad, California 92008; Telephone: (760) 931-2144] and Law Offices of Silver, Hadden & Silver, [Address: 1428 Second Street, Santa Monica, California 90401; Telephone (310) 393-1486].

ARTICLE 5. RECOGNITION

The City recognizes CPOA as the majority representation of the bargaining unit that includes the classifications as listed in the attached salary schedule.

ARTICLE 6. SAVINGS CLAUSE

- 6.1 If any articles of this Memorandum should be found invalid, unlawful or unenforceable by reason of existing or subsequent enacted legislation or by judicial authority, all other articles and sections of this Memorandum shall remain in full force and effect for the duration of this Memorandum.
- 6.2 In the event of invalidation of any article or section, the extinguished benefit shall be replaced by a substitute benefit of comparable value. The City and the Association shall meet within thirty (30) days following the invalidation for the purpose of determining the specific nature and form of the replacement benefit.

ARTICLE 7. NONDISCRIMINATION CLAUSE

Neither City nor CPOA shall interfere with, intimidate, restrain, coerce, or discriminate against employees covered by this Memorandum because of exercise of rights to engage or not engage in CPOA activity or because of the exercise of any right provided to the employees by this Memorandum.

ARTICLE 8. COMPENSATION ADJUSTMENTS

- 8.1 Effective the pay period inclusive of January 1, 2001, the base salary of each employee in each classification represented by the CPOA and employed as of January 1, 2001, shall be increased by four percent (4%).
- 8.2 Effective the pay period inclusive of January 1, 2002, the base salary of each employee in each classification represented by the CPOA and employed as of January 1, 2002, shall be increased by four and one-quarter percent (4.25%).
- 8.3 Effective the pay period inclusive of January 1, 2003, the base salary of each employee in each classification represented by the CPOA and employed as of January 1, 2003, shall be increased by four and one-half percent (4.5%).
- 8.4 Effective the pay period inclusive of January 1, 2004, the base salary of each employee in each classification represented by the CPOA and employed as of January 1, 2004, shall be increased by four and three-quarters percent (4.75%).

- 8.5 Effective the pay period inclusive of January 1, 2005, the base salary of each employee in each classification represented by the CPOA and employed as of January 1, 2005, shall be increased by five percent (5%).

ARTICLE 9. MANAGEMENT RIGHTS

The rights of the City include, but are not limited to, the exclusive right: to determine the mission of its major service areas, departments, commissions, and boards; to set standards of service; to determine procedures and standards of selection for employment and promotion; to direct its employees; to take disciplinary action; to relieve employees from duty because of lack of work or other legitimate reasons; to transfer employees among various department activities and work groups; to maintain the efficiency of City operations; to determine the methods, means and personnel by which City operations are to be conducted; to determine the contents of job classifications; to take all necessary actions to carry out its mission in emergencies; and to exercise complete control and discretion over its organization and the technology for performing its work. Nothing in this Memorandum shall require the City to meet and confer over the exercise of its management rights, however, in so doing, the City shall comply with all applicable provisions of this Memorandum.

ARTICLE 10. GRIEVANCE PROCEDURE

- 10.1 Purpose. The purpose and objectives of the grievance procedure are:
- 10.1.1 To promote improved employer-employee relations by establishing grievance procedures on matters for which an appeal or hearing is not provided by other regulations.
 - 10.1.2 To assure fair and equitable treatment of all employees and promote harmonious relations among employees, supervisors, and management.
 - 10.1.3 To encourage the settlement of disagreements informally at the employee-supervisor level and provide an orderly procedure to handle grievances throughout the several supervisory levels where necessary.
 - 10.1.4 To provide that appeals shall be conducted as informally as possible.
 - 10.1.5 To resolve grievances as quickly as possible and correct, if possible, the cause of grievances, thereby reducing the number of grievances and future similar complaints.
 - 10.1.6 This grievance procedure is applicable to all employee classifications represented by the CPOA in the Police Department of the City of Carlsbad.
- 10.2 Definitions. For the purpose of this grievance procedure the following definitions shall apply.
- 10.2.1 City Manager: The City Manager.
 - 10.2.2 Assistant City Manager: An Assistant City Manager.
 - 10.2.3 Department: An office, department, or institution of the City.

- 10.2.4 Department Head or Head of a Department: The chief executive officer of a department.
- 10.2.5 Employee or City Employee: Any officer or employee of the City, except an elected official.
- 10.2.6 Employee Representative: An individual who appears on behalf of the employee.
- 10.2.7 Grievance: A complaint of an employee or a group of employees arising out of an application or interpretation of existing rules, regulations, or policies which come under the control of a Department Head.
- 10.2.8 Immediate Supervisor: The individual who assigns, reviews, or directs the work of an employee.
- 10.2.9 Interested Party: An individual having pertinent and/or immediate knowledge of the circumstances out of which the grievance arose.
- 10.2.10 Supervisor: The individual to whom an immediate supervisor reports.

10.3 Reviewable and Non-Reviewable Grievances

- 10.3.1 To be reviewable under this procedure a grievance must:
 - (a) Concern matters or incidents that have occurred.
 - (b) Result from an act or omission by management regarding working conditions or other matters over which the head of the department has control.
 - (c) Arise out of a specific situation, act, or acts considered to be unfair which result in inequity or damage to the employee.
 - (d) Arise out of an interpretation and application of the Memorandum or Personnel Rules and Regulations.
- 10.3.2 A grievance is not reviewable under this procedure:
 - (a) If it is a matter which would require a modification of a policy established by City Council or by law;
 - (b) Is reviewable under some other administrative procedure and/or rules of the City of Carlsbad (See, e.g., Article 22 hereunder), such as:
 - (1) Applications for changes in title, job classification, or salary.
 - (2) Appeals from formal disciplinary proceeding.

(3) Appeals from work performance evaluations.

10.4 Special Grievance Procedure Provisions: The following special provisions apply to the grievance procedure.

10.4.1 Procedure for Presentation: In presenting a grievance, an employee shall follow the sequence and the procedure outlined in Section 10.5 of this procedure.

10.4.2 Prompt Presentation: The employee shall discuss the grievance with an immediate supervisor promptly after (i.e., when grievant knew or should have known) the act or omission of management caused the grievance.

10.4.3 Prescribed Form: The written grievance shall be submitted on a form prescribed by the Human Resources Director for this purpose.

10.4.4 Statement of Grievance: The grievance shall contain a statement of:

(a) The specific situation, act, or acts considered to be unfair and the reasons why.

(b) The inequity or damage suffered by the employee.

(c) The relief sought.

10.4.5 Employee Representative: The employee may choose someone as a representative at any step in the procedure. No person hearing a grievance need recognize more than one representative for any one time, unless he/she so desires.

10.4.6 Interested Parties: There shall be no limit placed upon the number of interested parties which may provide information during the hearing of a grievance at any step of the grievance procedure.

10.4.7 Handled During Working Hours: Whenever possible, grievances will be handled during the regularly scheduled working hours of the parties involved.

10.4.8 Extension of Time: The time limits within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the parties involved. A statement of the duration of such extension of time must be signed by both parties involved at the step to be extended.

10.4.9 Consolidation of Grievances: If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievances shall be handled as a single grievance.

10.4.10 Settlement: Any grievance shall be considered settled at the completion of any step if the grievant is satisfied or if the grievant does not present the matter to a higher authority within the prescribed time.

10.4.11 Reprisal: The grievance procedure is intended to assure a grieving employee the right to present a grievance without fear of disciplinary action or reprisal, provided the provisions of the grievance procedure are observed. Copies of grievance forms will not be placed in employee personnel records but will be maintained in separate files in the Human Resources Department.

10.5 Grievance Procedure Steps: The following procedure shall be followed by an employee submitting a grievance for consideration and action.

10.5.1 Discussion With Supervisor: The employee shall discuss the grievance with the employee's immediate supervisor informally. Within seven (7) calendar days, the supervisor shall give a decision to the employee verbally.

10.5.2 Step 1: If the employee and the supervisor cannot reach an agreement to resolve the grievance, the employee may within seven (7) calendar days present the grievance in writing to the supervisor. The supervisor shall memorialize the prior verbal decision on the grievance and present the grievance to the next-level supervisor within seven (7) calendar days.

The next-level supervisor shall hear the grievance and shall give a written decision to the employee within seven (7) calendar days after receiving the grievance. This portion of this step shall be repeated as necessary until the next-level supervisor is a Police Captain.

10.5.3 Step 2: If the employee and the next-level supervisor cannot reach an agreement to resolve the grievance, the employee may within seven (7) calendar days present the grievance in writing to the Police Chief. The Police Chief shall hear the grievance and shall give the written decision to the employee within seven (7) calendar days after receiving the grievance.

10.5.4 Step 3: If the employee and Police Chief cannot reach an agreement as to the solution of the grievance, the employee within seven (7) calendar days may present the grievance in writing to the Personnel Board. A copy of the grievance shall also be presented to the Assistant City Manager who may conduct a meeting with the grievant and/or CPOA representatives to identify and clarify disputed issues and attempt to resolve the grievance prior to presentation of the grievance to the Personnel Board.

10.5.5 Step 4: If the matter is not otherwise resolved, the Personnel Board shall, within thirty (30) calendar days after receipt of the grievance, hear the grievance and render an advisory opinion to the City Manager. The City Manager shall, within fourteen (14) calendar days after receipt of the advisory opinion, notify the employee of the final action.

10.5.6 Any of the above steps may be waived by mutual agreement of the parties.

ARTICLE 11. STAND-BY TIME PAY

Due to staff limitations, it may be necessary for the Police Chief to schedule employees to be on stand-by, to handle overtime work which may arise during other than normal working hours. Stand-by is defined as time in which an employee is required, by the Police Chief or designee, to remain at his/her residence or be at a place where the employee can be reached by phone and be within thirty minutes response capability so that he/she may immediately respond to any calls received. An employee will be compensated for stand-by time at the rate of twenty dollars (\$20) per 24 hours or fraction thereof. Employees on stand-by, called to perform work, will be compensated for all actual hours worked in accordance with overtime and call-back rules.

ARTICLE 12. BILINGUAL PAY

Any employee annually certified, as the Police Chief may direct, as a qualified translator-interpreter of the Spanish language shall receive forty dollars (\$40) per pay period.

ARTICLE 13. BASIC WORK WEEK/WORK DAY

- 13.1 The official workweek for non-sworn employees who work a 9/80 schedule begins on Friday at 12:01 p.m. and ends on the following Friday at 12:00 p.m.
- 13.2 The official workweek for non-sworn employees working any schedule other than a 9/80 schedule begins on Sunday at 12:01 p.m. and ends on the following Sunday at 12:00 p.m.
- 13.3 In accordance with section 7(k) of the Fair Labor Standards Act, the official work period for sworn employees begins on Sunday at 12:01 p.m. and ends 14 days later at 12:00 p.m. Overtime shall be compensated in the manner prescribed by Article 17 of this Memorandum.
- 13.4 Uniformed personnel will be given two (2) fifteen-minute rest periods and one (1) half-hour lunch break each work day without loss of pay.

ARTICLE 14. COURT PAY

- 14.1 Off duty personnel who appear in court pursuant to an official request from a legally constituted body regarding matters arising out of, or associated with, their employment shall be compensated at a minimum of four (4) hours per day calculated at time and one-half the employee's regular rate of pay. Actual time spent in court over the four (4) hour minimum on the same day is compensable at time and one-half the employee's regular rate of pay.
- 14.2 This minimum hour guarantee shall not apply if the court appearance is contiguous with the commencement or end of the employee's regularly scheduled work shift. In that situation, the employee shall receive overtime compensation, if applicable, for all time actually spent in court beyond the regularly scheduled work shift.
- 14.3 When personnel required to appear in San Diego area courts are held over during the normal lunch break for further appearance after lunch, they shall be entitled to credit for the lunch break as time worked.

- 14.4 When available, Carlsbad Police Department vehicles shall be used for employee transportation. If not available, employees shall be reimbursed for mileage expenses as set out in Council Policy Statement of the City of Carlsbad titled "Travel Policy" with an effective date of 12/14/99, including any subsequent changes to this policy.

ARTICLE 15. SICK LEAVE

- 15.1 Every probationary and regular employee within the classified service will accrue sick leave on a biweekly basis at the rate of eight (8) hours for each continuous calendar month of service.
- 15.2 Accrued, unused sick leave may be carried over to succeeding years, but will not be paid out when an employee's employment with the City ends.
- 15.3 Employees shall be granted sick leave: (1) to recuperate from or receive treatment for personal injuries or illnesses; (2) to care for an injured or ill family member; or (3) to attend the employee's own or a family member's medical, dental, or optometry appointments.

In addition, in the event of the death of an employee's family member, the employee may take up to five (5) consecutive shifts of paid time off for bereavement. In extreme circumstances, the Police Chief may allow the employee to take additional time off in the form of sick leave, provided the employee has sick leave available.

For the purpose of this section, the term "family member" includes a spouse, child, sibling, parent, or grandparent, whether natural, step, legally adopted, or in-law. It also includes any person who has served in place of a parent to the employee, any person for whom the employee has served in place of a parent, or any person living in the same household as the employee.

- 15.4 An employee who is absent because of a personal injury or illness or the injury, illness, or death of a family member must notify the employee's supervisor as soon as possible on the first day of the absence. An employee who needs to be absent to attend a medical, dental, or optometry appointment must have the absence approved in advance by the employee's supervisor.
- 15.5 Holidays occurring during sick leave will not be counted as sick leave. Sick leave may not be taken as vacation time, nor compensated in cash at any time, except as provided for in this article.
- 15.6 If an absence is for more than three (3) consecutive workdays and/or if it is covered by workers' compensation, the pregnancy disability provisions of the California Fair Employment and Housing Act, the California Family Rights Act, or the federal Family and Medical Leave Act, the City may require the employee to provide a medical certificate supporting the need for the absence.
- 15.7 Time off to take a physical examination for induction into or recall to active duty with the Armed Forces will be handled in accordance with applicable state and federal law.
- 15.8 An employee making a blood donation without charge will be given reasonable time off for that purpose. No charge will be made against the employee's sick leave or vacation when the absence is approved in advance by the employee's supervisor.

- 15.9 During the first pay period of each fiscal year, any regular employee who has accrued and maintains a minimum of one hundred sixty (160) hours of sick leave will be permitted to convert up to one hundred twenty (120) hours of accrued, unused sick leave to vacation at ratio of twenty four (24) hours of sick leave to eight (8) hours of vacation. However, an employee will not be permitted to convert sick leave to vacation if the conversion would cause the employee to exceed the vacation accrual maximum specified in Article 33.
- 15.10 Any regular employee applying for retirement with the Public Employees' Retirement System may convert accrued and unused sick leave to service time at the rate specified in California Government Code section 20965.
- 15.11 Nothing in this Article precludes the City from taking appropriate action in the event of abuse of sick leave.

ARTICLE 16. ASSOCIATION RIGHTS

- 16.1 The City recognizes the right of the CPOA to govern its internal affairs.
- 16.2 The parties to this Memorandum fully support the concept of the Public Safety Officers' Procedural Bill of Rights Act, Sections 3300, et seq., of the Government Code.
- 16.3 Upon the receipt of a written request and authorization from an employee for deduction of CPOA dues and other lawfully permitted deductions, the City shall withhold such dues and deductions from the salary of the employee and remit the withholdings to the CPOA. The City shall continue to withhold such deductions unless the employee files a statement with the City withdrawing authorization for the continued withholding of the deductions during the month of March of any year covered by the term of this Memorandum. The effective date of withholding, time of remitting withholdings to the CPOA, and all procedural matters shall be determined in accordance with the Rules and Regulations of the City.
- 16.4 The CPOA shall provide and maintain with the City a current list of the names and all authorized representatives of the CPOA. An authorized representative shall not enter any work location without the consent of the Police Chief or his designee or the City Manager or his designee. The Police Chief or his designee shall have the right to make arrangements for a contact location removed from the work area of the employee.
- 16.5 The CPOA shall be allowed to designate employee representatives to assist employees in:
- 16.5.1 Preparing and processing grievances;
 - 16.5.2 Preparing and presenting material for Disciplinary Appeals hearings;
 - 16.5.3 Preparing and presenting material for any matter for which representation is granted pursuant to the provisions of California Government Code Sections 3300, et seq., known as the Public Safety Officers' Procedure Bill of Rights Act.
- 16.6 The CPOA may designate one employee representative to assist an employee in preparing and presenting materials for the above-listed procedures. The employee representative so

designated shall be allowed reasonable release time from regularly scheduled duties for the purpose of investigating and preparing materials for such procedures. Employee representatives who investigate, prepare or present materials during off-duty time shall do so on their own time. Employee representatives and employees who attend Personnel Board or City Council hearings during the off-duty time shall do so on their own time; providing, however, that employees who are ordered or subpoenaed to attend such hearings shall be compensated in accordance with the overtime provisions of this Memorandum.

- 16.7 Designated employee representatives shall be allowed reasonable release time from regularly scheduled duties to attend meetings relative to other matters of employer-employee relations.
- 16.8 Designated employee representatives requesting time off under this Article shall direct such request to their immediate supervisors in writing within a reasonable time period to the date requested, in order to assure that the Department meets its staffing needs and to assure sufficient coverage of departmental assignments.
- 16.9 The City will continue to furnish bulletin board space in the Police Department for the exclusive use of the CPOA. Material placed on the bulletin boards shall be at the discretion of the CPOA and shall be removed by management only in the event the material is obviously offensive to good taste or defamatory, and shall be removed only on prior notification to a CPOA representative. The CPOA shall be responsible for maintaining bulletin boards exclusively used by the CPOA in an orderly condition and shall promptly remove outdated materials.
- 16.10 Use of City Facilities
- 16.10.1 The CPOA may, with the prior approval of the City Manager, be granted the use of the City facilities for off-duty meetings of the Police Department employees, provided space is available. All such requests will be in writing to the City Manager.
- 16.10.2 The CPOA may, with the prior approval of the Police Chief, be granted the use of Police facilities for off-duty meetings of the Police Department employees, provided space is available. All such requests will be in writing to the Police Chief. In the event the Police Chief denies use of Police Department facilities, an appeal can be made to the City Manager.
- 16.10.3 The use of City equipment other than items normally used in the conduct of business meetings, such as desks, chairs, ash trays and blackboards, is strictly prohibited, the presence of such equipment in approved City facilities notwithstanding.

ARTICLE 17. OVERTIME PAY

Each employee covered by this agreement shall be entitled to overtime compensation at the premium rate of one and one-half (1-1/2) times the employee's regular rate of pay for all time worked, or regarded as having been worked because of authorized leaves of absence, in excess of the employee's regularly scheduled work day and/or in excess of forty (40) hours per work week for non-sworn employees or eighty (80) hours per fourteen (14) day work period for sworn employees. Each employee shall have the

option of receiving compensatory time off at the premium rate in lieu of cash, subject to a maximum accumulation of eighty (80) hours of compensatory time off. While an employee has accumulated the maximum number of hours of compensatory time off, he/she shall receive all overtime compensation in cash until such time as the compensatory time off bank is no longer at the maximum accrual rate.

ARTICLE 18. CALL BACK PAY

If an employee is required to return to his/her place of employment or other work location directed by the employer at a time that is not part of the employee's regularly scheduled work shift, that employee shall receive appropriate overtime pay, as described in Article 17, for the actual number of hours worked on that occasion, subject to the following minimum guarantees:

- (a) If the "call back" was scheduled in advance, such as for training or firearms qualification, the employee shall receive a minimum of two hours of appropriate overtime compensation.
- (b) If the "call back" was not scheduled in advance, the employee shall receive a minimum of three hours of appropriate overtime compensation.

These minimums shall not apply to situations where the call back is contiguous with the commencement or end of the employee's regularly scheduled work shift. In that situation, the employee shall receive applicable overtime compensation for all time actually worked beyond the regularly scheduled work shift.

This Article shall apply to all situations where an Investigator receives a telephone call that is authorized by the Watch Commander at a time when the Investigator is off duty. On those occasions, whenever the Investigator is called, he/she shall be requested to report for duty and, upon so reporting, shall be entitled to the compensation described above.

ARTICLE 19. SENIORITY

- 19.1 The seniority of an employee is based on the number of calendar months of continuous service in the Carlsbad Police Department. Within a rank, the seniority of an employee is based on the number of calendar months of continuous service in the Carlsbad Police Department in that rank.
- 19.2 If an employee voluntarily leaves the City's employ or is dismissed for cause, the employee will lose all seniority credited prior to then. Reemployment will not restore the lost seniority. Instead, if an employee is reemployed, seniority will be based on the reemployment date.
- 19.3 An employee laid off after completing probation and acquiring regular status will, after reinstatement, regain the seniority credit the employee possessed at the time of layoff, provided the reinstatement occurs within twenty-four (24) months of the layoff.
- 19.4 A leave of absence in excess of thirty (30) continuous days will not count as continuous service for the purpose of determining seniority.

ARTICLE 20. LEGAL REPRESENTATION

- 20.1 Upon request of an employee and subject to any legal limitations, the City will provide for the defense of the employee in any civil action or proceeding initiated against the employee by a person or entity other than the City because of an act or omission occurring within the course and scope of the employee's employment.

- 20.2 Nothing in this Memorandum requires the City to provide for the defense of an employee where: (a) the City has the discretion under the California Government Code not to provide for a defense; (b) the act or omission was not within the course and scope of the employee's employment; (c) the act or omission was the result of the employee's actual fraud, corruption, or malice; or (d) providing for the defense would create a specific conflict of interest between the City and the employee within the meaning of California Government Code section 995.2.
- 20.3 Nothing in this Memorandum is intended to give an employee more rights or privileges than those contained in the California Government Code.

ARTICLE 21. PEACEFUL PERFORMANCE OF CITY SERVICES

- 21.1 During the term of the Memorandum, the CPOA, its representatives, or members shall not engage in, cause, instigate, encourage or condone a strike or work stoppage of any kind against the City of Carlsbad.
- 21.2 During the term of the Memorandum, the City will not instigate a lockout over a dispute with the employees.
- 21.3 As used in this section, "strike or work stoppage" means the concerted failure to report for duty, the willful absence from one's position, the stoppage of work, or the abstinence in whole or in part from the full, faithful performance of the duties of employment for the purpose of inducing, influencing or coercing a change in the conditions of compensation, or the rights, privileges or obligations of employment.

ARTICLE 22. DISCIPLINE OF AN EMPLOYEE

- 22.1 The City may only discipline regular employees for just cause. In the case of disciplinary action involving suspension, demotion or discharge, the employee shall be given notice of the action to be taken, the evidence or materials upon which the action is based, and an opportunity to respond to the Police Chief either orally or in writing, provided the employee requests the opportunity within seven (7) calendar days of the notice of the action. The above process will occur prior to the imposition of the discipline.
- 22.2 Except as provided in Section 22.4, all employees have the right to appeal their discipline according to the appeal procedure as set out below. Written notice of discipline shall inform and remind the disciplined employee of this right.
- 22.3 Once discipline has been imposed, the Police Chief or an authorized designee shall specify the period of time, from one to four years, that the discipline will remain in the affected employee's personnel records, unless a longer period is required by law. At the end of the designated period of time, the disciplinary action shall be removed from the employee's personnel file. It is the responsibility of the employee to initiate a request for removal of disciplinary action from the employee's personnel file. The only permitted use of the removed disciplinary action shall be in a later disciplinary proceeding where there is an allegation of similar or cumulative activity or misconduct.
- 22.4 Nothing in this Memorandum shall be construed to require "cause" or "just cause" for the rejection of a probationary employee prior to the expiration of the probationary period. A

probationary employee rejected during the probationary period shall not be entitled to appeal such rejection to the Personnel Board, but shall be entitled to an opportunity to discuss the rejection with the Police Chief.

- 22.5 Right of Appeal. Any regular employee shall, within seven (7) calendar days, have the right to appeal to the Personnel Board any disciplinary action, interpretation or alleged violation of the Personnel Ordinance or Personnel Rules, except in instances where the right of appeal is specifically prohibited by the Personnel Ordinance or Personnel Rules, or this Article.
- 22.6 Method of Appeal. Appeals shall be in writing, subscribed by the appellant, and filed with the Human Resources Director, who shall, within ten (10) calendar days after receipt of the appeal, inform each Board member of the action desired by the appellant and the reasons why. The formality of a legal pleading is not required.
- 22.7 Notice. Upon the filing of an appeal, the Human Resources Director shall set a date for the hearing on the appeal not less than ten (10) calendar days nor more than thirty (30) calendar days from the date of filing, unless the parties mutually agree to a later hearing date. The Human Resources Director shall notify all interested parties of the date, time, and place of the hearing.
- 22.8 Hearings. Unless physically unable to do so, the appellant shall appear personally before the Personnel Board at the time and place of the hearing. The appellant may be represented at the hearing by any person or attorney the appellant selects and may produce any relevant oral or documentary evidence. The City shall state its case first and, at the conclusion, appellant may then present evidence. Rebuttal matter not repetitive may be allowed in the discretion of the Personnel Board. Cross-examination of witnesses shall be permitted. The conduct and decorum of the hearing shall be under the control of the Personnel Board by its chairman, with due regard to the rights and privileges of the parties appearing before it. Hearings need not be conducted according to technical rules relating to evidence and witnesses. Hearings shall be closed unless the appellant, in writing, requests an open hearing.
- 22.9 Findings and Recommendations. The Personnel Board shall, within ten (10) calendar days after the conclusion of the hearing, certify its findings and decisions in writing to the City Council and to the appellant. The City Council shall review the findings and recommendations of the Personnel Board and may then affirm, revoke or modify the action taken as, on its judgment, seems warranted, and the action taken shall be final. Any member of the Personnel Board may submit a minority or supplemental finding and recommendation. In the case of suspension, discharge or demotion, the appointing power shall reinstate an employee to the employee's former status if the City Council determines that the action was for discriminatory reasons.

ARTICLE 23. PROBATIONARY PERIOD

- 23.1 For sworn personnel, the entry level probationary period shall be one year from the date the employee is sworn as an officer. For non-sworn personnel, the entry level probationary period shall be one year from the date of hire. The probationary period will permit both the supervisor and the employee to become acquainted and to determine the adaptability and the fitness of the employee to the assigned work. The employee will find this period helpful in evaluation of the City, his/her duties, his/her work and other satisfaction.

- 23.2 All personnel promoted within the Department shall be on probation in the promotional position for a period of one year from the date of promotion.

ARTICLE 24. RETIREMENT BENEFITS

- 24.1 The City agrees to continue to pay the employer's contribution rate required by the California Public Employees' Retirement System (CalPERS) to maintain the current level of benefits for employees covered by this Memorandum.
- 24.2 The City will contract with CalPERS to provide the "3% @ 50" retirement benefit for all sworn CPOA-represented safety employees effective the pay period inclusive of June 30, 2001.
- 24.3 Effective the pay period inclusive of July 1, 2001, the City will pay on behalf of all sworn CPOA-represented safety employees eight percent (8%) of the employee's retirement contribution to CalPERS. Effective the pay period inclusive of July 1, 2001, each sworn CPOA-represented safety employee will pay the additional one percent (1%) employee retirement contribution to CalPERS.
- 24.4 The City will continue to pay on behalf of all represented miscellaneous employees the seven percent (7%) employee's retirement contribution to CalPERS.

ARTICLE 25 FLEXIBLE BENEFITS PROGRAM

- 25.1 Employees represented by the CPOA will participate in a flexible benefits program which includes medical insurance, dental insurance, vision insurance, flexible spending accounts (FSAs) and other insurance-related products offered through the CPOA. Each of these components is outlined below.

25.2 Medical Insurance

During the entire term of this agreement, represented employees will be covered by the Public Employees' Medical and Hospital Care Act and will be eligible to participate in the CalPERS Health Program. Under the CalPERS Health Program, the City will contribute up to a maximum of sixteen dollars (\$16.00) per month toward the cost of each employee's health insurance. If electing to enroll for medical benefits, the employee must select one medical plan from the variety of medical plans offered.

Effective the first full pay period following City Council approval of this agreement, the City shall contribute the following monthly amounts (called "Benefits Credits") on behalf of each active employee and eligible dependents toward the payment of 1) medical premiums under the CalPERS Health Program, 2) contributions in the name of the employee to the City's flexible spending account(s), 3) contributions of some or all of the premium for dental coverage, vision coverage, or other insurance related products offered through the CPOA.

- (a) For employees with "employee only" coverage, the City shall contribute two hundred sixty-four dollars (\$264) per month. If the actual total premiums exceed the aggregate of sixteen dollars (\$16) and two hundred sixty-four dollars (\$264), the employee will pay the difference.

- (b) For employees with “employee plus one dependent” coverage, the City shall contribute three hundred ninety-three (\$393) per month. If the actual total premiums exceed the aggregate of sixteen dollars (\$16) and three hundred ninety-three dollars (\$393), the employee will pay the difference.
- (c) For employees with “employee plus two or more dependents” coverage, the City shall contribute five hundred eight dollars (\$508) per month. If the actual total premiums exceed the aggregate of sixteen dollars (\$16) and five hundred eight dollars (\$508), the employee will pay the difference.

Beginning January 1, 2002:

- (a) For employees with “employee only” coverage, the City shall contribute three hundred four dollars (\$304) per month. If the actual total premiums exceed the aggregate of sixteen dollars (\$16) and three hundred four dollars (\$304), the employee will pay the difference.
- (b) For employees with “employee plus one dependent” coverage, the City shall contribute four hundred thirty-three dollars (\$433) per month. If the actual total premiums exceed the aggregate of sixteen dollars (\$16) and four hundred thirty-three dollars (\$433), the employee will pay the difference.
- (c) For employees with “employee plus two or more dependents” coverage, the City shall contribute five hundred forty-eight dollars (\$548) per month.. If the actual total premiums exceed the aggregate of sixteen dollars (\$16) and five hundred forty-eight dollars (\$548), the employee will pay the difference.

The dollar amount paid by the City for each coverage level (employee only, employee plus one dependent, employee plus two or more dependents) will be increased on January 1 in 2003, 2004 and 2005. The amount of the increase will be determined by 1) taking the average percentage increase for all of the CalPERS HMO Health plans for January 1st of the year in question and 2) adding this percentage increase to the previous calendar year’s monthly City contribution for each coverage level (rounded to the nearest whole dollar amount) to determine the new monthly City contribution dollar amount.

Under no circumstances will any unused Benefits Credits as outlined above be paid to the employee in cash. If the amount contributed by the City (Benefits Credits) exceeds the cost of the medical insurance purchased by the employee, the employee will have the option of using any “excess credits” to purchase dental insurance, vision insurance or any other insurances provided by the CPOA, or to contribute to a healthcare or dependent care flexible spending account (FSA).

25.3

Dental Insurance

Represented employees are eligible to enroll in a CPOA-sponsored dental plan.

25.4

Vision Insurance

Represented employees are eligible to enroll in a CPOA-sponsored vision insurance plan.

25. 5 Each retired employee who was a member of this bargaining unit is covered by the Public Employees' Medical and Hospital Care Act and is eligible to participate in the California Public Employees' Retirement System (CalPERS) Health Program. Represented employees who retire from the City, either service or disability, shall be eligible to continue their enrollment in the CalPERS Health Program when they retire, provided that the individual is enrolled at the time of separation from employment and their effective date of retirement is within 120 days of separation. The City will contribute up to a maximum of sixteen dollars (\$16.00) per month toward the cost of each retiree's enrollment in the CalPERS Health Program. Direct authorization may be established for automatic deduction of payments for health insurance administered by CalPERS.

ARTICLE 26. UNIFORM REIMBURSEMENT

As of January 1, 2000, reimbursement to represented employees for the cost of purchasing and maintenance of required uniforms shall be six hundred fifty dollars (\$650). This reimbursement will be prorated and paid out on a biweekly basis in the amount of \$25 per pay period over 26 pay periods.

ARTICLE 27. EDUCATIONAL INCENTIVE

27.1 Educational Incentive Compensation. As of January 1, 1996, the below described Educational Incentive Program shall be effective.

27.1.1 Step 1: Applicable to sworn Peace officers in the bargaining unit represented by the CPOA.

(a) Requirement: Present proof to the Training Manager, Carlsbad Police Department, of the following:

(1) Completion of probation as a member of the Police Department of the City of Carlsbad. The probationary period must have been completed immediately prior to the time the application for Educational Incentive Compensation is submitted.

and

(2) Present evidence to the Training Manager, Carlsbad Police Department, of the award of an Intermediate Certificate issued by the State of California Commission on Peace Officer Standards and Training.

(b) Compensation: Satisfactory fulfillment of the above requirement shall be compensated at the rate of sixty dollars (\$60) paid biweekly for twenty-six biweekly pay periods per fiscal year. Such compensation shall be in lieu of any previous Educational Incentive compensation payments which have been received. Eligibility for receiving the compensation will be based upon the date the certificate is issued by P.O.S.T. It is the sole responsibility of the officer to seek the award of the certificate.

27.1.2

Step 2: Applicable to all non-sworn employees in the bargaining unit represented by the CPOA.

- (a) Requirement: Present evidence to the Training Manager, Carlsbad Police Department, of the following:
 - (1) Completion of probation as a member of the Police Department of the City of Carlsbad. The probationary period must have been completed immediately prior to the time the application for Educational Incentive Compensation is submitted.

and

 - (2) Present evidence to the Training Manager, Carlsbad Police Department, of having met the State of California Commission on Peace Officers Standards and Training requirements for the award of an Intermediate Certificate as determined and agreed to by representatives of the City Manager and the CPOA President. It is understood no certificate can be awarded to non-sworn.
- (b) Compensation: Satisfactory fulfillment of the above requirement shall be compensated at the rate of sixty dollars (\$60) paid biweekly for twenty-six biweekly pay periods per fiscal year. Such compensation shall be in lieu of any previous Educational Incentive compensation payments which have been received. It is the sole responsibility of the employee to seek the award of compensation.

27.1.3

Step 3: Applicable to sworn Peace officers in the bargaining unit represented by the CPOA.

- (a) Requirement: Present proof to the Training Manager, Carlsbad Police Department, of the following:
 - (1) Completion of probation as a member of the Police Department of the City of Carlsbad. The probationary period must have been completed immediately prior to the time the application for Educational Incentive Compensation is submitted.

and

 - (2) Present evidence to the Training Manager, Carlsbad Police Department, of the award of an Advanced Certificate issued by the State of California Commission on Peace Officer Standards and Training.

- (b) Compensation: Satisfactory fulfillment of the above requirement shall be compensated at the rate of ninety dollars (\$90) paid biweekly for twenty-six biweekly pay periods per fiscal year. Such compensation shall be in lieu of any previous Educational Incentive compensation payments which have been received. Eligibility for receiving the compensation will be based upon the date the certificate is issued by P.O.S.T. It is the sole responsibility of the employee to seek the award of the certificate.

27.1.4 Step 4: Applicable to all non-sworn employees in the bargaining unit represented by the Carlsbad Police Officers' Association.

- (a) Requirement: Present evidence to the Training Manager, Carlsbad Police Department, of the following:
 - (1) Completion of probation as a member of the Police Department of the City of Carlsbad. The probationary period must have been completed immediately prior to the time the application for Educational Incentive Compensation is submitted.

and

 - (2) Present evidence to the Training Manager, Carlsbad Police Department, of having met the State of California Commission on Peace Officers Standards and Training requirements for the award of an Advanced Certificate as determined and agreed to by representatives of the City Manager and the CPOA President. It is understood no certificate can be awarded to non-sworn.
- (b) Compensation: Satisfactory fulfillment of the above requirement shall be compensated at the rate of ninety dollars (\$90) paid biweekly for twenty-six biweekly pay periods per fiscal year. Such compensation shall be in lieu of any previous Educational Incentive compensation payments which have been received. It is the sole responsibility of the employee to seek the award of compensation.

ARTICLE 28. FIELD TRAINING OFFICER

Field training officers or civilian personnel who are assigned to train co-workers shall be compensated at the rate of \$20 for each work shift the employee is engaged in the training function. The selection of field training officers or civilian personnel who are assigned to train co-workers shall be at the sole discretion of the Police Chief.

ARTICLE 29. VEHICLES FOR INVESTIGATIONS

Each represented employee who is working in the assignment of detective shall be assigned a designated vehicle and shall be entitled to use the vehicle on each duty shift; provided, however, such assignment of a designated vehicle is expressly conditioned on the availability of vehicles and does not extend to any detectives assigned in addition to the number assigned as of the date of this Memorandum.

ARTICLE 30. LONG TERM DISABILITY

During the term of this Memorandum, City agrees to continue to provide long term disability insurance. The insurance shall provide for a thirty (30) day waiting period prior to payment eligibility. In all other respects, the insurance shall continue unchanged.

ARTICLE 31. LEAVE OF ABSENCE

31.1 Occupational Injuries or Illnesses

- 31.1.1 A sworn employee who is temporarily unable to work due to an occupational illness or injury will receive full pay for up to one year as provided in Section 4850 of the Labor Code (“4850 benefits”). The employee may not receive 4850 benefits concurrently with sick leave or any other form of paid time off.

If the employee continues to be unable to work after the employee’s 4850 benefits have been exhausted and the employee has not been retired, the employee will receive workers’ compensation temporary disability payments (or, if appropriate, vocational rehabilitation maintenance allowance payments) as provided in the Labor Code. To the extent these benefits are less than the employee’s full regular pay, the employee shall supplement them by using accrued sick leave, vacation, and/or compensatory time to reach the amount equal to the employee’s full regular pay until the employee’s leave balances reach zero, at which time the employee would commence an unpaid leave of absence.

- 31.1.2 A non-sworn employee who is temporarily unable to work due to an occupational illness or injury will receive full pay for the first ninety (90) calendar days. If the employee continues to be temporarily unable to work after ninety (90) calendar days, the employee will receive workers’ compensation temporary disability payments (or, if appropriate, vocational rehabilitation maintenance allowance payments) as provided in the Labor Code. To the extent that these benefits are less than the employee’s full regular pay, the employee shall supplement them by using accrued sick leave, vacation, and/or compensatory time to reach the amount equal to the employee’s full regular pay until the employee’s leave balances reach zero, at which time the employee would commence an unpaid leave of absence.

31.2 Non-Occupational Injuries or Illnesses

- 31.2.1 An employee who is temporarily unable to work due to a non-occupational illness or injury will receive those disability benefit payments for which the employee is eligible and applies. To the extent that these benefits are less than the employee’s full regular pay, the employee shall supplement them by using accrued sick leave, vacation, and/or compensatory time to reach the amount equal

to the employee's full regular pay until the employee's leave balances reach zero, at which time the employee would commence an unpaid leave of absence.

31.2.2 Leaves of absence for pregnancy-related disabilities will be handled in the same manner as leaves of absence for non-occupational illnesses or injuries, subject to the pregnancy disability provisions of the California Fair Employment and Housing Act.

31.3 Once an employee has been on an unpaid leave of absence for two full pay periods, the employee will cease accruing sick leave and vacation. In addition, the employee's vacation anniversary date and salary anniversary date will be extended for each calendar day the leave of absence extends beyond the first two full pay periods. Accruals of sick leave and vacation will resume on the first day of the first full pay period after the employee has returned to work.

31.4 To the extent permitted by law, a leave of absence under this article will run concurrently with any leave of absence an employee is entitled to receive under the California Family Rights Act or the federal Family and Medical Leave Act.

ARTICLE 32. DISABILITY RETIREMENT

An employee's eligibility for disability retirement will be determined in accordance with the standards and procedures contained in California Government Code sections 20000 et seq.

ARTICLE 33. VACATION

33.1 All eligible miscellaneous and uniformed police employees shall be entitled to accrue vacation on a bi-weekly basis according to the number of continuous full years of employment based on the following vacation accrual schedule:

Beginning with the first (1st) working day through the completion of five (5) full calendar years of continuous service – 80 hours/year

Beginning the sixth (6th) year of continuous employment through the completion of ten (10) full calendar years of continuous service – 120 hours/year

Beginning the eleventh (11th) year of continuous employment through the completion of eleven (11) full calendar years of continuous service – 128 hours/year

Beginning the twelfth (12th) year of continuous employment through the completion of twelve (12) full calendar years of continuous service – 136 hours/year

Beginning the thirteenth (13th) year of continuous employment through the completion of thirteen (13) full calendar years of continuous service – 144 hours/year

Beginning the fourteenth (14th) year of continuous employment through the completion of fifteen (15) full calendar years of continuous service – 152 hours/year

Beginning the sixteenth (16th) year of continuous employment, vacation time shall be accrued, and remain at a rate of 160 hours for every full calendar year of continuous employment thereafter.

Employees will not be entitled to take vacation until they have been employed with the City for six (6) full months.

33.2 Vacation Accrual

Effective the pay period inclusive of April 2, 2001, all employees shall be entitled to earn and accrue vacation up to and including three hundred and twenty (320) hours of vacation. During the pay period inclusive of April 2, 2001, any accrued vacation hours over the three hundred and twenty (320) hour maximum will be converted to cash at the employee's regular rate of pay and included on that paycheck. Effective April 16, 2001, no employee will be allowed to earn and accrue vacation hours in excess of the three hundred and twenty (320) hour maximum.

The Police Chief will encourage the taking of accrued vacation leave. Although employees are responsible for actively managing their leave balances, the Police Chief will not unreasonably deny requests for vacation time off. If there are unusual circumstances that would require an employee to exceed the vacation accrual maximum, he/she must submit a request in writing to the Police Chief and the City Manager. The Police Chief and the City Manager may grant such a request if it is in the best interest of the City. Requests will be handled on a case-by-case basis and will be considered only in extreme circumstances.

33.3 Vacation Conversion

Once, during the pay period inclusive of April 2, 2001, employees will be allowed to voluntarily convert up to eighty (80) hours of accrued vacation to cash.

Once each January thereafter, employees will be allowed to voluntarily convert up to eighty (80) hours of accrued vacation to cash, provided they have used at least eighty (80) hours of vacation during the prior calendar year.

33.4 Effects of Holiday on Vacation Leave

In the event one or more authorized municipal holidays fall within a vacation leave, such holiday shall not be charged as vacation leave, but shall be credited as a holiday.

33.5 Compensation for City Work During Vacation Prohibited

No person shall be permitted to work for compensation for the City in any capacity, except compensation for mandated court appearances, during the time of his/her paid vacation leave from City service. This clause shall not limit the City's right to recall an employee from vacation in the event of an emergency and place him/her on regular pay status.

33.6 Scheduling Vacations

An employee may take his/her annual vacation leave at any time during the year, contingent upon determination by the Police Chief that such absence will not materially

affect the department. Each employee must consider the needs of the service when requesting annual vacation leave. An employee shall normally provide forty-eight (48) hours notice in advance of the day(s) he/she is requesting vacation time off. When a family emergency arises which necessitates the use of vacation time, an employee shall provide as much advance notice as possible considering the particular circumstances.

33.7 Terminal Vacation Pay

An employee with regular status separating from the City service who has accrued vacation leave shall be entitled to terminal pay in lieu of such vacation. No leave credit will be earned on terminal leave payments. When separation is caused by death of an employee, payment shall be made to the estate of such employee or, in applicable cases, as provided in the Probate Code of the State.

ARTICLE 34. HOLIDAYS

34.1 The City agrees to observe twelve (12) scheduled paid holidays plus one (1) paid floating holiday per year. Any floating holiday is to be taken at the discretion of the employee with the prior approval of the employee's immediate supervisor. The holiday schedule shall not interfere with, influence, or otherwise change the scheduling of shift employees by the department.

34.2 The holiday schedule for the term of this agreement is as follows:

- New Year's Day
- Martin Luther King's Birthday
- Lincoln's Birthday
- Washington's Birthday
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving Day
- Thanksgiving Friday
- Christmas Day

34.3 Employees who work a 5/8 schedule will be paid eight (8) hours of straight time for each holiday. Employees who work a 9/80 schedule will be paid nine (9) hours of straight time for each holiday. Employees who work a 4/10 schedule will be paid ten (10) hours of straight time for each holiday. Employees who work a 3/12 schedule will be paid twelve (12) hours of straight time for each holiday.

34.4 Employees assigned to Patrol or Dispatch whose regularly scheduled work shift falls on a holiday and who actually work on the holiday will receive, in addition to holiday pay, straight time for all regular hours worked and time and a half for all overtime hours worked.

Employees assigned to Patrol or Dispatch whose regularly scheduled work shift does not fall on a holiday, but who are required by the Department to actually work on the holiday, will

receive, in addition to holiday pay, time and a half for all regular and overtime hours worked.

For purposes of this section, a shift trade will be considered part of an employee's regularly scheduled work shift.

- 34.5 Employees assigned to areas other than Patrol or Dispatch who are required by the Department to actually work on a holiday will receive, in addition to holiday pay, time and a half for all regular and overtime hours worked.
- 34.6 For purposes of this section, the term "Patrol" includes DARE Officers, but it does not include School Resource Officers.

ARTICLE 35. SALARY ON PROMOTION

- 35.1 Effective January 1, 1999, any officer promoted to the rank of Police Sergeant will be compensated at a minimum of five percent (5%) above the top step of Senior Police Officer.
- 35.2 Effective January 1, 1999, any Communications Operator I or II promoted to the position of Communications Supervisor will have their compensation adjusted a minimum of five percent (5%) and not less than the top step of Lead Communications Operator.

ARTICLE 36. ALCOHOL AND DRUG POLICY

I. POLICY

It is the policy of the City of Carlsbad to provide, for its employees, a work environment free from the effects of drugs and alcohol consistent with the directives of the Drug Free Workplace Act. The City of Carlsbad agrees to use a clinical laboratory which is certified by the National Institute on Drug Abuse (NIDA), now known as the Substance Abuse & Mental Health Services Administration (SAMHSA). All procedures and protocols for collection, chain of custody and testing will be conducted consistent with standards required under SAMHSA certification. This policy will be interpreted consistent with the provisions of the Public Safety Officers Procedural Bill of Rights (Government Code Section 3300 et seq.). This policy is intended to accomplish that objective.

A. Definitions - As Used in This Policy:

- 1. "Drug" means any substance which produces a physical, mental, emotional or behavioral change in the user, including but not limited to, prescription medications, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, methamphetamines, alcohol, marijuana, and other cannabinoids.
- 2. "Workplace" means any site where City-assigned work is performed, including City premises, City vehicles or other premises or vehicles, while City-assigned work is being conducted, or within a reasonable time thereafter.

3. "Reasonable suspicion" means a standard for evidence or other indication of impairment of normal physical or mental skills by alcohol or drugs where such impairment could negatively affect work performance or could pose a threat to public or employee safety.

B. Employee Responsibilities

1. As a condition of employment, employees shall:
 - a. not engage in the unlawful manufacture, distribution, dispensation, possession or use of alcohol or drugs nor be under the influence of alcohol or drugs in the workplace or while on-call;
 - b. submit to an alcohol and drug analysis and remain on the premises when requested to do so by City management, acting pursuant to this policy, or by law enforcement personnel;
 - c. notify the City of any conviction under a criminal drug statute (including any pleas of nolo contendere), if such conviction was based on a violation which occurred in the workplace, no later than five days after such conviction;

(notification under this subsection does not relieve an employee from the disciplinary consequences of the conduct upon which a criminal conviction is based); and
 - d. abide by all terms of this policy.
2. Employees are encouraged to notify their supervisors when taking any medication or drugs, prescription or non-prescription (over-the-counter medications), which may interfere with safe or effective performance of their duties or operation of City equipment.
3. Off-duty involvement with any controlled substance including, but not limited to manufacture, distribution, dispensing, possession, use or any conviction under a criminal drug statute whose scope and employment are relevant to City employment may result in disciplinary action up to and including termination if there is relevant nexus between such off-duty involvement and the employee's employment with the City, consistent with the legal requirements for disciplinary due process.

C. Consequences of Violation of Policy

1. Failure to abide by the terms of this policy shall be grounds for disciplinary action, up to and including termination.
2. In addition to any disciplinary action, an employee who fails to abide by this policy may also be directed or allowed to satisfactorily participate in an approved alcohol or substance abuse assistance or rehabilitation program.

II.

DRUG AND ALCOHOL ANALYSIS

A. Pre-employment Drug and Alcohol Analysis

1. Upon receiving a conditional offer of employment, an otherwise successful candidate must submit to a drug and alcohol analysis. At the City's discretion, this analysis may be in the form of "breathalyzer," urine, or blood analysis.
2. Persons whose results are positive for either drugs or alcohol will be rejected for City employment.

B. Employee Drug and Alcohol Analysis

1. If a manager or supervisor of the City has reasonable suspicion that an employee is under the influence of drugs or alcohol while in the workplace or subject to duty, the employee shall be:
 - a. Prevented from engaging in other work; and
 - b. Required to submit to a drug and alcohol analysis. At the City's discretion, this analysis may be in the form of "breathalyzer," urine, or blood analysis.
 - c. An employee may also be required to remain on the premises for a reasonable time until arrangements can be made to transport the employee to his or her home.
2. Some examples of "reasonable suspicion" as defined in Section 1.A.3. include, but are not limited to, the following, when confirmed by more than one person having supervisory authority:
 - a. slurred speech.
 - b. alcohol odor on breath;
 - c. unsteady walking or movement not related to prior injury or disability;
 - d. an accident involving City property having no obvious causal explanation other than possible employee responsibility;
 - e. physical or verbal behaviors that are disruptive, non-responsive, unusual for that employee or otherwise inappropriate to the workplace situation;
 - f. attributable possession of alcohol or drugs;
 - g. information obtained from a reliable person with personal knowledge that would lead a reasonably prudent supervisor to believe that an employee is under the influence of alcohol or drugs.

3. Refusal to remain on the premises or to submit to a drug and alcohol analysis when requested to do so by City management or by law enforcement officers shall constitute insubordination and shall be grounds for discipline, up to and including termination.
4. A drug and alcohol analysis may test for the presence of any drug which could impair an employee's ability to effectively and safely perform the functions of his or her job.
5. A positive result from a drug and alcohol analysis may result in disciplinary action, up to and including termination.
6. City agrees to take steps to protect the chain of custody of any drug test sample.
7. Employee will be placed on paid administrative leave pending the completion of any testing process and any investigation deemed necessary by the City.

III. EMPLOYEE ASSISTANCE PROGRAM

- A. The City has a well established voluntary Employee Assistance Program (EAP) to assist employees who seek help for substance abuse problems. The EAP is available for assessment, referral to treatment, and follow-up. Any employee of the City wishing confidential assistance for a possible alcohol or drug problem can call the EAP office and arrange for an appointment with a counselor. The EAP program is provided by Integrated Insights and can be reached by calling 1(800) 342-8111.
- B. Employees who are concerned about their alcohol or drug use are strongly encouraged to voluntarily seek assistance through the EAP. All self-referral contacts are held in confidence by the EAP.
- C. Participation in the employee assistance program will not replace normal disciplinary procedures for unsatisfactory job performance or for violation of any City policy.

ARTICLE 37. EMPLOYER SEARCHES

For the purpose of enforcing City or Department policies, directives, and work rules, the City reserves the right to search, with or without prior notice to the employee, all work areas and property in which the City maintains full or joint control with the employee, including, without limitation, City vehicles, desks, lockers, file cabinets, and bookshelves. These areas and property remain part of the workplace context even if the employee has placed personal items in them. Employees are cautioned against storing personal belongings in work areas and property under full or joint City control since such work areas may be subject to investigation or search under this article.

Employer searches may occur when there is a reasonable suspicion that the employee has violated a City or Department policy, directive, or work rule and that the area or property to be searched may contain

evidence of that violation. Searches will be conducted by persons having supervisory and/or other legal authority to conduct them. Searches will not normally occur without the concurrence of more than one supervisor.

If the Public Safety Officers Procedural Bill of Rights Acts (Government Code sections 3300 et seq.) is applicable to a particular search, then the City will comply with the Act notwithstanding anything to the contrary in this article.

Nothing in this article will prevent the City from taking appropriate action if there is inadvertent discovery of evidence of a policy, directive, or work rule violation.

ARTICLE 38. FLEXIBLE JOB SHARING

Employees may, with the express written approval of the City Manager, the Human Resources Director, and the Police Chief, participate in a flexible job-sharing program. The specifics of such a program shall be determined by the employees and the City on a case by case basis. Prior to the implementation of any such program, a written agreement setting forth the specifics of the program shall be signed by the affected employees and the City. This article shall not be subject to the grievance procedure.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Memorandum to be effective as stated herein.

CITY OF CARLSBAD

RAYMOND R. PATCHETT, City Manager Date

APPROVED AS TO FORM:

RONALD R. BALL, City Attorney Date

CARLSBAD POLICE OFFICERS' ASSOCIATION

G.E. BEASON, President Date

**SIDE AGREEMENT BETWEEN
THE CITY OF CARLSBAD AND
THE CARLSBAD POLICE OFFICERS' ASSOCIATION**

The purpose of this Agreement to clarify certain provisions of the Memorandum of Understanding ("Memorandum") between the City of Carlsbad and the Carlsbad Police Officers' Association, commencing on January 1, 2001 and continuing through December 31, 2005.

3/12 SCHEDULE

References in the Memorandum to a 3/12 schedule refer to a schedule in which employees work three 12-hour shifts during one of the workweeks in a two-week pay period and three 12-hour shifts plus one 8-hour shift during the other workweek in the pay period, for a total for 80 hours worked in the pay period. For employees who are not covered by the 7(k) exemption contained in Article 13.3 of the Memorandum, hours worked in excess of 40 in a workweek will be compensated in accordance with Article 17 of the Memorandum.

HOURS WORKED FOR OVERTIME PURPOSES

For purposes of computing entitlement to overtime under Article 17 of the Memorandum, "hours worked" includes hours an employee is regularly scheduled to work but does not work because the employee is on any approved paid leave.

**PRE-TAX DEDUCTION FOR SWORN EMPLOYEES' 1% CONTRIBUTION TO
P E R S**

In addition to processing the paperwork necessary to provide the "3% @ 50" retirement benefit discussed in Article 24.2 of the Memorandum, the City will process the paperwork necessary to allow the 1% employee contribution discussed in Article 24.3 of the Memorandum to be deducted on a pie-tax basis, with the objective of completing the processing of both prior to June 30, 2001.

IMPLEMENTATION OF REQUIREMENT TO SUPPLEMENT LEAVE CONTAINED IN ARTICLE 31

The requirement in Article 31 that an employee exhaust all forms of paid leave (including vacation, sick leave, and compensatory time-off) prior to commencing an unpaid leave of absence will take effect on January 1, 2002.

AGREED AND ACCEPTED:

CARLSBAD POLICE OFFICERS' ASSOCIATION



G.E. BEASON, President

3/29/01

Date

CITY OF CARLSBAD



RAYMOND R. PATCHETT, City Manager

4-2-01

Date

APPROVED AS TO FORM:



RONALD R. BALL, City Attorney

4/2/2001

Date